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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 MIRA BLANCHARD, et al.,

8 Plaintiffs,

9 v.

10 FLUENT, INC., et al.,

11 Defendants.

Case No. [17-cv-01551-MMC](#)

**ORDER DENYING STIPULATIONS;
EXTENDING FILING DEADLINES AND
CONTINUING HEARING DATE**

Re: Dkt. Nos. 24, 25

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13 On March 22, 2017, defendant Fluent, Inc. ("Fluent") removed the instant action on
14 the asserted basis of diversity jurisdiction. On April 3, 2017, plaintiffs filed a motion to
15 remand and, on April 4, 2017, the Court, based on a different ground, specifically,
16 defendants' failure to demonstrate the citizenship of a number of entity defendants and
17 several individual defendants, issued an order directing Fluent to show cause why the
18 action should not be remanded for lack of subject matter jurisdiction. (See Order to Show
19 Cause at 2:6-8.)

20 Now before the Court are two stipulations, (1) a stipulation, filed May 5, 2017, to
21 allow plaintiffs to file a Second Amended Complaint; and (2) a stipulation, filed May 8,
22 2017, to extend, pending plaintiffs' filing of a revised motion to remand, Fluent's deadline
23 to respond to plaintiffs' motion to remand and the Court's order to show cause, both of
24 which were due no later than May 8, 2017. The Court, having reviewed the two
25 stipulations, rules as follows.

26 "[F]ederal removal jurisdiction on the basis of diversity . . . is determined (and must
27 exist) as of the time the complaint is filed and removal is effected." See Strotek Corp. v.
28 Air Transport Ass'n of America, 300 F.3d 1129, 1131 (9th Cir. 2002). Here, as set forth in

1 the Court's Order to Show Cause, there has been no showing that the parties in the
2 instant action were diverse at the time of removal. Under such circumstances, the Court
3 finds it preferable to defer the filing of an amended complaint until such time as the Court
4 has resolved the question of removal jurisdiction. If defendants succeed in establishing
5 removal jurisdiction, the Court will then determine the effect of any post-removal
6 amendment to name additional parties.

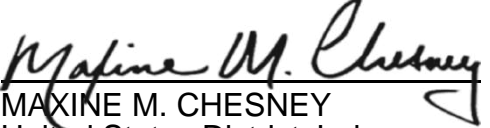
7 Accordingly, (1) the parties' stipulation to file the proposed Second Amended
8 Complaint is hereby DENIED, without prejudice to refiling after the issue of removal
9 jurisdiction is resolved, and (2) the parties' stipulation to continue Fluent's response
10 deadlines in light of such amended pleading is hereby DENIED as moot.

11 As Fluent may have relied on the pending stipulations, however, the Court hereby
12 EXTENDS to May 18, 2017, the deadline for Fluent to file its responses to plaintiffs'
13 motion and the Court's order.

14 In light of the above extension, the deadlines for plaintiffs' replies are
15 correspondingly EXTENDED to May 25, 2017, and the hearing on plaintiffs' motion is
16 hereby CONTINUED from June 2, 2017, to June 9, 2017.

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18 **IT IS SO ORDERED.**

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20 Dated: May 11, 2017

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22 MAXINE M. CHESNEY
23 United States District Judge
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